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BILL ANALYSIS

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House Bill 4664 (as passed by the House)
Sponsor: Representative Greg MacMaster
House Committee: Appropriations
Senate Committee: Appropriations

Date Completed: 6-6-13

CONTENT

The bill would amend the State Employees' Retirement Act to remove a September 30, 2013, sunset on a provision that allows retired corrections officers to work under certain limited conditions.

The State Employees' Retirement Act requires retirants who have been rehired by the State to suspend retirement allowance during the period of employment. The Act contains three exemptions to this requirement. These three exemptions allow a State employee to concurrently draw a pension while working for the State as a rehired employee after retirement as follows: 1) the retiree provides health care services under the jurisdiction of the Michigan Department of Corrections (MDOC); 2) the retiree was a special assistant attorney general who possesses specialized expertise; or 3) the retiree is hired to provide for the custody of individuals under the jurisdiction of the MDOC, and is limited in term, no benefits are paid, the pay is not more than 80% of the maximum hourly wage for the position, the retiree retired after a bona fide termination of employment, and he or she works no more than 1,040 hours in a 12-month period. This exemption for rehired MDOC custody staff is applicable only until September 30, 2013.

The bill would eliminate the September 30, 2013, sunset provision, which would allow retired corrections officers to be rehired under the conditions specified in the Act for an indefinite period.

MCL 38.68c

FISCAL IMPACT

The exemption for MDOC custody staff described above was created by Public Act 432 of 2012. The intent of the legislation was primarily to enable the MDOC to generate savings by using retired corrections custody staff to fill existing vacancies, particularly vacancies that would otherwise need to be filled using existing staff who would receive overtime. In addition to avoiding paying time-and-a-half for overtime hours, the Department would not pay the retired workers any fringe benefits (as their health care costs would be covered under the State retirement system), other than employer contribution for payroll taxes. The FY 2012-13 MDOC budget assumed savings of $10.0 million based on the implementation of this concept.

The average hourly rate for a corrections officer is approximately $24 (and over 80% of the custody staff workforce is at the maximum rate), which means that for overtime shifts the average compensation increases to approximately $36 per hour. In addition to the wage,

the Department must pay the associated retirement cost, which is a factor of 0.57, or a contribution of approximately $20. (This factor also includes legacy costs.) This brings the total cost of an average employee working overtime to approximately $56 per hour. It was estimated that the cost of bringing back a retired officer under the conditions set forth in Public Act 432 of 2012 would be approximately $18 per hour, including the costs of the employer share of FICA/Medicare payroll taxes. This means that each hour of overtime that instead could be temporarily covered by a retired officer would save the Department $38.

To reach the assumed level of savings of $10.0 million, the Department would have to use 260,000 hours of retired officer labor, which is the equivalent of 250 retired officers working the 1,040-hour maximum allowed under the Act. In FY 2011-12, 260,000 hours would have represented only 17% of the total overtime hours worked, so if enough retired corrections officers could be hired, it was considered feasible that 260,000 overtime hours could be replaced with 260,000 retired officer hours. The MDOC is currently in the process of training hundreds of new officers, with whom the Department also hopes to fill vacancies and reduce the need for overtime. However, the number of vacancies is also not static, as officers are regularly lost to attrition such as retirement.

The overall savings attributable to the exemption depends upon how successful the Department is in finding the required number of retired officers interested in returning to work at the MDOC facilities. Currently, the MDOC is not on track to achieve the $10.0 million in savings via the implementation of this concept; however, the MDOC has indicated that it plans to achieve the required savings through other efficiencies. The fiscal year began on October 1, 2012, but Public Act 432 of 2012 was not signed into law until the end of December, so the Department missed more than three months of potential savings. However, the primary reason that the MDOC will not save $10.0 million in FY 2012-13 under this initiative is the limited success in recruiting qualified retired officers. The MDOC sent letters to 1,348 eligible retired officers who have been retired for three years or less, but as of May 21, 2013, it has hired only six officers (and has as many as 18 currently in the pipeline). The Department estimates that the six officers it has hired will save it $250,000, and the MDOC's hopeful that at least six of the 18 in the pipeline will be successfully hired and will allow the Department to save $250,000 more for total savings of $500,000 for FY 2012-13.

The removal of the sunset would allow these savings to continue into FY 2013-14, and would also allow the MDOC to appeal to additional officers to potentially increase the amount of savings that could be achieved. (Some officers may not have been interested previously given the limited window within which they would have been allowed to work.)

The bill would create a potential fiscal risk to the State Employee Retirement System (SERS). The bill would give actively working SERS employees an incentive to retire and then seek re-employment with the State, which would allow the retirant to concurrently draw a pension and a paycheck as an active employee. When active employees have an incentive to leave active employment earlier than the actuarial assumptions, there are costs to the retirement system of paying out pensions earlier than assumed, which then generates additional unfunded accrued liabilities in the retirement plan. Public Act 432 limited this risk by creating a narrow window of roughly nine months within which the retirant would be able to concurrently draw a pension and a paycheck, but this bill would not limit the risk in that manner.

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